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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,524	01/12/2004	John F. Bently		1375

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EXAMINER

WOOD, KIMBERLY T

ART UNIT PAPER NUMBER

3632

DATE MAILED: 10/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/755,524

Applicant(s)

BENTLY, JOHN F.

Examiner

Kimberly T. Wood

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 3632

This is an office action for serial number 10/755,524, entitled Vent Cover Bracket And Process therewith, filed on January 12, 2004.

Oath/Declaration

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

It does not identify the city and either state or foreign country of residence of each inventor. The residence information may be provided on either on an application data sheet or supplemental oath or declaration.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 19 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for a second pair of orifices is located on opposite sides of a different opening of the at least two openings and midway between a first end of different opening and a second end of the different opening, does not reasonably provide enablement for second pair

Art Unit: 3632

of orifices is located on opposite sides of a different opening of the at least two openings and midway between a first end of the one opening and a second end of the different opening. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 21-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21-24 are directed to a bracket in combination with a process however, it is not proper to have a method claim (process) dependent from a structure claim therefore the claims are indefinite and unclear since the examiner can not determine the meets and bounds of the claims.

Claim 21 recites the limitation "the first determining step" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 3632

Claim 21 recites the limitation "the second determining step" in line 9. There is insufficient antecedent basis for this limitation in the claim.

Claim 24 recites the limitation "the forming step" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claims 9-12 recites the limitation "the notches " in line 3. There is insufficient antecedent basis for this limitation in the claim. The applicant has claimed in claimed within claim 8 that the orifices comprise notches or holes therefore within the following claims the applicant should be consist with the claim language and claim notches or holes. If the applicant wants to claim the orifices as only notches the claim from which claims 9, 10, 11, and 12 should further limit the claims to be directed to only notches. The examiner has rejected the claims as being notches or holes based on the indefiniteness of claims 9-12.

The claims have been rejected under 35 U.S.C. 112 for the above reasons. Please note that the Examiner may not have pointed out each and every example of indefiniteness. The applicant is required to review all the claim language to make sure the claimed invention is clear and definite.

Art Unit: 3632

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14 are rejected, as best understood, under 35 U.S.C. 102(b) as being anticipated by Miller 4,289,290. Miller discloses a plate (24), at least two openings two openings (36a or slots on 24b or 24a) being along the center axis (extending along or near the axis not necessary being on the axis), at least one pair of orifices (40, 42 or 36c being notches or holes 36c intersecting the side edges), the at least pair of orifices (40 and 42) intersect the at least two openings (openings on 24b or 24a) (intersect by definition "meaning sharing a common area"). The common are being 24b or 24a).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3632

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 15-24 are rejected, as best understood, under 35 U.S.C. 103(a) as being unpatentable over Miller 4,289,290 in view of Olson 2,638,643. Miller discloses all of the limitations of the claimed invention except for the pair of orifices being notches that intersect the side edges of the plate along the length of the plate. Olson teaches that it is known to have the orifices as being notches or holes that intersect the side edges of the plate (12, 14, 16, and 18).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

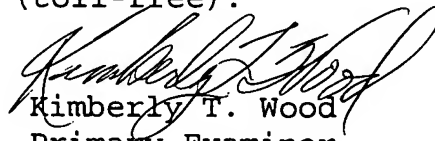
The prior art discloses conventional brackets having weakened zones.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly T. Wood whose telephone number is 703-308-0539. The examiner can normally be reached on Monday-Thursday 7:30am to 5:00pm.

Art Unit: 3632

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Kimberly T. Wood
Primary Examiner
Art Unit 3632

September 27, 2004